

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3 MICHAEL RENO and ERIC KIEFABER,

4 Plaintiffs,

5 v.

6 WESTERN CAB COMPANY, HELEN
7 TOBMAN MARTIN, MARILYN TOBMAN
8 MORAN, JANIE TOBMAN MOORE,
9 MARTHA SARVER, and JASON AWAD,

 Defendants,

Case No.: 2:18-cv-00840-APG-NJK

**ORDER GRANTING IN PART
PLAINTIFFS' MOTION FOR LEAVE TO
FILE A SECOND AMENDED
COMPLAINT**

[ECF No. 63]

10 Plaintiffs seek leave to file a second amended complaint to add six named plaintiffs. ECF
11 No. 63. Five of the proposed plaintiffs—Dennis Rhoades, Jason Harris, Premier Tamayo,
12 Wilfredo Allanigue, and Aries Bihasa—previously filed consents to join the existing FLSA
13 action. ECF Nos. 44, 56, 59. The sixth proposed plaintiff, Marco Bakhtiari, wishes to assert only
14 state law claims.

15 In a prior order, I declined to exercise supplemental jurisdiction over the state law claims.
16 ECF No. 67. I therefore deny as moot the plaintiffs' motion for leave to amend in regard to the
17 proposed plaintiffs' state law claims. The remainder of this order concerns the proposed
18 amendments relating to the FLSA claims.

19 The defendants argue that the motion should be denied because it does not meet the
20 joinder requirements of Federal Rule of Civil Procedure 20. ECF No. 65. Specifically, the
21 plaintiffs fail to show that the proposed claims are based on the same transaction or occurrence
22 as the claims in the first amended complaint because the plaintiffs do not attach an individualized
23 declaration or affidavit of factual support for any of the five proposed FLSA plaintiffs. The

1 defendants also argue that because each driver uses his own car as a taxi, each has unique fares,
2 commissions, gasoline expenditures, and payments, resulting in separate transactions and
3 occurrences. The plaintiffs reply that there is no individualized requirement under Rule 20, and
4 that the factual allegations included in their proposed second amended complaint are sufficient
5 for joinder under Rule 20.

6 “Under the Rules . . . , joinder of claims, parties, and remedies is strongly encouraged.”
7 *United Mine Workers of America v. Gibbs*, 383 U.S. 715, 724 (1966). And “permissive joinder is
8 to be construed liberally in order to promote trial convenience and to expedite the final
9 determination of disputes” *League to Save Lake Tahoe v. Tahoe Regional Planning Agency*,
10 558 F.2d 914, 917 (9th Cir. 1977). I may allow the permissive joinder of parties if “(A) [the
11 proposed parties] assert any right to relief jointly, severally, or in the alternative with respect to
12 or arising out of the same transaction, occurrence, or series of transactions or occurrences; and
13 (B) any question of law or fact common to all plaintiffs will arise in the action.” Fed. R. Civ. P.
14 20(a)(1).

15 The parties do not dispute that the proposed plaintiffs’ claims involve the same questions
16 of law and fact as those of the existing plaintiffs. Moreover, the claims of the proposed new
17 plaintiffs arise out of the same transactions or occurrences as those alleged by the current
18 plaintiffs. The proposed second amended complaint alleges that all plaintiffs “are current or
19 former taxicab driver employees of the defendants” whose “hourly compensation, when
20 calculated pursuant to the requirements of . . . the FLSA did not equal at least the minimum
21 hourly wage required by those laws” due to the defendants’ policy of “requiring their taxi drivers
22 to pay the fuel costs of Western Cab’s taxi cabs from their tips.” ECF No. 63 at 8, 10, and 17.
23 These claims sufficiently tie the transactions and occurrences of the proposed plaintiffs to those

1 of the existing plaintiffs, even if the specific employment details might vary at the individual
2 level. *See Desert Empire Bank v. Insurance Co. of North America*, 623 F.2d 1371, 1375-76 (9th
3 Cir. 1980) (finding that “courts have shown a strong liberality in allowing parties to amend their
4 pleadings when such amendments have satisfied the explicit requirements of the rules.”).

5 I therefore grant the plaintiffs’ motion for leave to amend and add plaintiffs Dennis
6 Rhoades, Jason Harris, Premier Tamayo, Wilfredo Allanigue, and Aries Bihasa as to the FLSA
7 claims only.

8 IT IS THEREFORE ORDERED that the plaintiffs’ motion for leave to file a second
9 amended complaint (**ECF No. 63**) is **GRANTED** in part. The plaintiffs shall revise their
10 proposed second amended complaint to comply with this order and my prior order regarding the
11 state law claims. The plaintiffs shall file and serve that pleading within 14 days of entry of this
12 order.

13 DATED this 15th day of January, 2019.

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16 ANDREW P. GORDON
17 UNITED STATES DISTRICT JUDGE
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